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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			WALSH, DANIEL I	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/551,473	PARKER, JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL WALSH	2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 June 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 7-12, 14, 16-18, 21-26, 28, 30-31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Shintani (US 6137480).

Re claim 1, Shintani teaches means for requesting access, means for determining authorization is required, means for transmitting a search signal, means for receiving an authorization signal and providing access (abstract and FIG. 1-3 where authorization signals sent from the card contactlessly to the communication section are transmitted to the computer to authenticate a user to use the computer/data/files.

Regarding the new limitations of the apparatus comprising means for determining whether authorization is required and means for transmitting a search signal upon said determining that authorization is required, Shintani teaches (abstract) determining whether authorization is required for access, based upon periodic communication with the card (periodic polling is interpreted as determining whether authorization is required), and alternatively in a state where a user has not logged in yet (awaiting login) because the computer is determining whether authorization is required, since in both instances, it is determined that authorization is required.

Further, the Examiner notes that “for access to be provided” can be read as a use or effect of the authorization as worded, as determining whether authorization is required is what is positively recited.

Re claim 2, col 3, lines 49+ teaches time period between a search signal and receipt of a authorization signal to determine access.

Re claim 3, if authorization is not received, the computer locks down, but requires no special steps for a user to log back in, and hence retransmits the search signal, such as by merely approaching the keyboard 3.

Re claims 7-9, as the security is built into the system, means for determining authorization is interpreted to be present upon power up and can include when access to selected applications is requested, such as data/files as discussed above, and is present periodically such as when the card is being queried to verify user proximity.

Re claims 10-12 (abstract) teaches activating a screen saver when a time period is exceeded, and wherein upon authorization would then be required. The second predetermined time period is determined by a user as “user” is broadly interpreted to mean a person, as the claim does not recite that the “user” is the “user of the system” for example. A user can be interpreted as someone who uses, and therefore the programming/determination of the second predefined time period is interpreted as being performed by a user (who created/implemented the timer).

Re claim 14, the limitations have been discussed above.

Re claim 16-18, the limitations have been discussed above.

Re claim 21-26, the limitations have been discussed above.

Re claim 28, the limitations have been discussed above.

Re claim 30, the limitations have been discussed above wherein the card is the module.

Re claim 31, the limitations have been discussed above.

Re claim 33, computers/electronic devices have data stored therein. Specifically,

Shintani teaches that the FeRAM 13 includes information of the file name or data type (on the computer) which the user has access/privileges to. This is interpreted as providing access to a set of data from a plurality of data stored on the electronic device according to the authorization signal.

2. Claim 1, 2, 3, 7, 8, 13, 14, 15, 16, 17, 18, 21, 22, 27, 28, 29, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Kataoka (US 6515575).

Re claim 1, Kataoka teaches an apparatus for providing access to an electronic device comprising means for requesting access to the electronic device (authentication data, as per the abstract), means for determining that authorization is required in order that access be provided (powering or use of the device, as authorization is always required, when input is applied to 320), means for transmitting a search signal upon determination that authorization is required (radio transmitter 230), means for receiving an authorization signal (radio receiver 240) and means for providing access to the electronic device in dependence on the received authorization signal (through the access controller 210 and communication controller 310; see FIG. 2).

Regarding the new limitations of the apparatus comprising means for determining whether authorization is required for access and means for transmitting a search signal upon said determining that authorization is required, Kataoka teaches (FIG. 2), via timer, that there is a means for determining whether authorization is required (after a time period it is determining

that authorization is required) which causes the search signal to be sent which is used to provide access. Further, the Examiner notes that “for access to be provided” can be read as a use or effect of the authorization as worded, as determining whether authorization is required is what is positively recited.

Re claim 2, Kataoka teaches means for determining a first time period between transmission of the search signal and receipt of the authorization signal wherein access is provided in dependence on the first time period behind less than a first predefined time period (second timer 300).

Re claim 3, FIG. 5 shows the limitations, s405 being a repeat check.

Re claim 7, power up of the electronic device includes determining that authorization is required, as authorization is required for access.

Re claim 8, when access is requested at 320, this is interpreted as access to selected applications.

Re claim 13, RF signals are taught (FIG. 2).

Re claims 14, 15, 16, 17, 18, 21, 22, 27, 28, 29, 30, and 31, the limitations have been discussed above.

3. Claims 1, 2, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 22-25, and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Xydis (US 6070240).

Re claim 1, Xydis teaches an apparatus for providing access to an electronic device comprising means for requesting access to the electronic device (login), means for determining that authorization is required in order that access be provided (access requires authorization), means for transmitting a search signal upon determination that authorization is required

(transceiver 20 scans for the user code of the user who logged in ), means for receiving an authorization signal (transceiver receives the transponder response code), and means for providing access to the electronic device in dependence on the received authorization signal (abstract, FIG. 2-FIG 3), with RF communications (re claim 13).

Re the newly added limitations of means for determining whether authorization is required for access and means for transmitting a search signal in response to said determining, the Examiner notes that Xydis teaches (timer 32) that there are predetermined periods of sensing and non-sensing, which is interpreted as means for determining whether authorization is required for access (authorization is not continually required, as the device is only polled periodically), but authorization is determined to be required for access when polling is performed, and also Xydis teaches (col 4, lines 18+) that means for determining authorization is required for access can be dependent upon a user depressing a key. As Xydis makes a distinction between returning users versus first access (lockout and re-lockout per the abstract), this also is relied upon for teaching determining whether authorization is required (which type of authorization (new or returning user). The Examiner notes that (col 4, lines 18+) teach that if the user is away that polling is not constantly performed to conserve energy. This can be interpreted as determining whether authorization is required, the result being that it is determined that authorization is not required for access, since the user is away. Further, Xydis teaches a database 34 of an array of software accessible by one authorized user, being different from software accessible for other users, and hence authorization for accessing different software/programs needs to be obtained for such a system.

Finally, the Examiner notes that “for access to be provided” can be read as a use or effect of the authorization as worded, as determining whether authorization is required is what is positively recited.

Re claim 2, Xydis teaches (abstract) that if the transponder is removed (not sensed in a time period greater than a specified time, that lockout mode is started, and hence this reads on the claim limitations.

Re claim 7, as authorization is always required in order to use the system, it is understood that powering up the system results in requiring the authorization (also see col 4, lines 56+). Therefore, as long as the power of the system is on, authorization is required.

Re claim 8, as authorization is always required, this is interpreted to include selected applications.

Re claim 9, the Examiner has interpreted that once the system is on, means for determining that authorization is required are therefore present. Accordingly, col 4, lines 18+ teaches periodic performing of means for determining that authorization is required.

Re claim 10, as discussed above re claim 9, idle time is measured to see if a person is still at the system/computer.

Re claim 11, as discussed above, if the idle time is too long, authorization is required again.

Re claims 14, 15, 16, 17, 21-25, and 27-31, the limitations have been discussed above.

Re claim 32, Xydis teaches software (12, per abstract) which is interpreted as access to a predetermined application processed in the device (the software is installed/processed in the

device and hence is predetermined). Further, Xydis teaches a database 34 of an array of software accessible by one authorized user, being different from software accessible for other users.

Re claim 33, the Examiner notes that the different software programs available to a user based on the authorization signal is interpreted as sets of data.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12, 13, 15, 26, 27, 29, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shintani, as discussed above.

The teachings of Shintani have been discussed above.

Re claims 13 and 15 and 27 and 29, though silent to radio signals, as non-contact cards are taught, the Examiner notes that RFID is well known and conventional in the art and the choice of such a particular well known technology for contactless communications is an obvious matter of design constraints, based on cost, desired form factor, range, security, convenience, etc.

Re claims 12 and 26, though silent to a user of the system determining the second predefined time period, the Examiner notes that it would have been obvious to one of ordinary skill in the art for a user to do so, in order to control the computing environment. For example, it is known in the art for users to specify time periods of inactivity that result in security measures such as password protected screen savers starting. It would have been obvious to have a user

determine the predefined time period, analogous to enacting screen savers, in order to provide security (such as per the abstract).

Re claim 32, though silent to the electronic device including access to a predetermined application processed in the electronic device, the Examiner notes that it is well known and conventional in the art for electronic devices/computers to have applications installed/processed therein. By providing access to the computer/device, it would have been obvious to one of ordinary skill in the art that by providing access, one would be able to access predetermined (stored) software, programs, data, etc. processed/installed/recorded therein, via access. As data type/file names are included, as discussed above, it would have been obvious that certain file types be associated with certain software/applications/programs for usability.

5. Claims 4-6 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shintani, as discussed above, in view of Teicher et al. (US 20040123127).

The teachings of Shintani have been discussed above.

The Examiner notes that the use of manual logins is well known and conventional in the art. Nonetheless, Teicher et al. teaches (para 0073) that when automatic access is defined that manual authentication can be performed.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Shintani with those of Teicher et al.

One would have been motivated to do this to provide a failsafe way (direct input) if wireless/radio/RF means is inoperable/fails, especially as Shintani has a keyboard. A PIN is a well known means of a password/personal identifier, and therefore is an obvious expedient for security.

6. Claims 9, 23, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka, as discussed above.

The teachings of Kataoka have been discussed above.

Though silent to powering up of the host computer 30, the Examiner notes that it is understood that authorization is always required after powering up of the device, and hence is interpreted as periodic (always on when the host computer is on/accessible). Further, FIG. 2 teaches a timer used to periodically check whether they are within a distance which they can make communication.

Re claim 32, Kataoka teaches allowing the terminal to carry out a predetermined application operation only when within range. Though silent to access to an application processed in the device, the Examiner notes that computers are well known to have software and programs stored thereon. It would have been obvious to allow access to a predetermined application processed in the device (applications/programs installed/stored therein) as part of logging into the system, in order to provide the user such functionality with the device.

Re claim 33, though silent to accessing a set of data from a plurality of data, the Examiner notes that as a user is authenticated to log in, it would have been obvious to one of ordinary skill in the art to have access to at least some data on the computer (such as programs, software, applications, personal data, etc), in order to provide some functionality on the computer to the user. Even in the instance of workstations connected to mainframes/servers, the workstations still provide data sets/data/software/applications stored thereon to the user, to facilitate computing. Therefore, it is obvious to one of ordinary skill in the art that a person

Art Unit: 2887

using a computer/computing device would have access to data/programs/software therein, to provide conventional computing ability.

7. Claims 4-6 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka, as discussed above, in view of Teicher et al. (US 20040123127).

The teachings of Kataoka have been discussed above.

The Examiner notes that the use of manual logins is well known and conventional in the art. Nonetheless, Teicher et al. teaches (para 0073) that when automatic access is defined that manual authentication can be performed.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Kataoka with those of Teicher et al.

One would have been motivated to do this to provide a failsafe way (direct input) if wireless/radio/RF means is inoperable/fails.

A PIN is interpreted as a type of password/identifier.

8. Claims 3, 9, 12, 18, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xydis, as discussed above.

The teachings of Xydis have been discussed above.

Re claim 3, the Examiner notes that Xydis is silent to retransmitting the search signal if the authorization signal is not received in a time period, as Xydis teaches merely timing out/error. However the Examiner notes it would have been obvious to one of ordinary skill in the art to repeat the request as it would not compromise the security (access would not be permitted until authorization) and it would permit convenience by not requiring special steps to be taken if a read was mistakenly unavailable. Such a change could be a matter of system

Art Unit: 2887

constraints/security, being balanced with convenience. Merely repeating an authentication request therefore would have been obvious to one of ordinary skill in the art in order to try to attempt a read. Further, the Examiner notes that when Xydis teaches that an error message appears, and to "press space key for access" this can be interpreted as re transmitting when the signal is not received in the first time period.

Re claim 9, col 4, lines 18+ teaches that sensing for user code in the operating space can be for predetermined periods of sensing and non-sensing so as to reduce wear/tear, with respect to continuous sensing of an operating user. However, the Examiner notes that as to the initial power up of the system, Xydis teaches (col 4, liens 56+) that the space bar method can be used to reduce wear/tear but is silent to the periodic polling and non-polling. However, the Examiner notes that just as the case with a current user, the periodic polling and non-polling is obvious to one of ordinary skill in the art to have a near-continuous means of detection without the extent of wear/tear that one would have with a constant-on detection. The manipulation of the amount of time on/off would have been an obvious matter of design variation based on historic usage, power constraints, cost, etc.

Re claim 12, the Examiner notes that "a user" is sufficiently vague, and has interpreted the limitation to merely mean a person, as it is not recited what the user uses, or is a user of. Therefore, the examiner notes that it would have been obvious to one of ordinary skill in the art for someone to adjust the time. One would have been motivated to do this as a matter of design constraints in order to control wear/tear of the reader, to be in accordance with use characteristics of the users, etc., as an obvious expedient. Alternatively, as "user" has not been specified as a user of the apparatus, a "user" can be interpreted as the person responsible for programming the

timer for the appropriate timing, and therefore obviously would have determined the time they set.

Re claims 18, 23, and 26, the limitations have been discussed above.

***Response to Arguments***

9. Applicant's arguments filed have been fully considered but they are not persuasive.
10. Re the Applicants argument that the prior art does not teach the means for determining whether authorization is required in order for access to be provided and means for transmitting a search signal for a separate module upon determining authorization is required by the means for determining, the Examiner respectfully disagrees.  
The Examiner notes that the prior art teaches determining if authorization is required, such as when a key is pushed on a keyboard, when a user attempts to login at power up, re-login, or log-in after a different user has logged off, an automatic lockout mode (which indicates determination of a returning user versus a first access by a user), and when the device determines that authorization for access is not required (such as when the user is away, as this is also an example of said determining whether authorization is required for access).
12. The Examiner notes that the claimed limitations of determining whether authorization is necessary, is a type of authorization is of itself. More simply put, by authorizing, the device determines that authorization is necessary, and by not authorizing (such as when the user is away on vacation) it determines authorization is not necessary.

13. Further, the Examiner notes that “for access to be provided” can be read as a use or effect of the authorization as worded, as determining whether authorization is required is what is positively recited.

14. Further, the Examiner notes that while claim 1 recites determining whether authorization is required for access to be provided and transmitting the search signal in response thereto, the remaining independent claims don't recite “whether” authorization is required. Accordingly, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However, as discussed above, the prior art is believed to teach means for determining whether access is required, because determining whether authorization is necessary, is a type of authorization, and in performing such a step of authorization, the prior art is determining whether authorization is required. Authorization is determined as required when timers indicate so, when logins are attempted, when re-logins are attempted, when scanning is turned off (and hence authorization is determined as not required), etc. as discussed above.

15. The Examiner notes that if the Applicant desires to claim that the apparatus detects both which programs/applications need authorization for access and which programs/applications do not need authorization for access when a user requests access to an electronic device through attempting to use one of the aforementioned programs/application, in combination with the separate module, the Examiner suggests the Applicant put such claim limitations into the body of the independent claims, to preclude/overcome the interpretation provided by the Examiner above.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887